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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Ratnam SOORIYAKUMARAN et al.

Confirmation No. 7983

Application Serial No. 10/079,289

Group Art Unit: 1752

Filing Date: February 19, 2002

Examiner: Barbara Lee GILLIAM

Title: FLUORINATED SILSESQUIOXANE POLYMERS AND USE THEREOF IN
LITHOGRAPHIC PHOTORESIST COMPOSITIONS

**APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)**

Mail Stop Petitions

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

04/16/2007 WASFAW2 00000048 090441 10079289
01 FC:1455 200.00 DA

Sir:

Pursuant to 37 C.F.R. § 1.705, applicants respectfully request patent term adjustment for this application as set forth in the paragraphs that follow. The Office is authorized to charge the \$200.00 fee for the Application for Patent Term Adjustment under 37 C.F.R. § 1.18(e) to Deposit Account no. 09-0441. The Office is also authorized to credit any overpayment for this application to Deposit Account No. 09-0441. The facts in support of this filing are as follows:

This patent application was filed on February 19, 2002, and therefore is subject to the patent term adjustment procedures set forth in 37 C.F.R. §§ 1.702 to 1.705 for applications filed on or after May 29, 2000.

On May 13, 2002, applicants filed a Preliminary Amendment for this application.

On June 11, 2002, applicants filed a second Preliminary Amendment for this application.

On September 23, 2003, the Office mailed a Requirement for Restriction ("Requirement"). The Requirement set a one-month shortened statutory period for reply from the mailing date of the Requirement.

delay, i.e., the non-compliant amendment on October 23, 2003 and the request for extension of time on June 5, 2006.

In summary, applicants respectfully request that the Patent Term Adjustment be increased from 112 days, as reported on the Determination of Patent Term Adjustment under 35 U.S.C. 154 (b), to 556 days (i.e., 621 days of Office delay minus 65 days of applicant delay) plus the number of days between February 19, 2005, and the date of issue of the patent.

If the Office would like to discuss any aspect of this filing, the Office representative assigned to process this request is welcome to call the undersigned attorney at 650-251-7724.

Respectfully submitted,

By:



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Customer Number 23980

On October 23, 2003, in response to the Requirement dated September 23, 2003, applicants timely filed a Third Preliminary Amendment and Response to Requirement for Restriction.

On November 19, 2003, the Office mailed a Notice of Non-compliant Amendment ("Notice"), setting a one-month shortened statutory period for reply from the mailing date of the Notice.

On December 19, 2003, in response to the Notice dated November 19, 2003, applicants timely filed a Response to Non-compliant Amendment ("Response"). Attached to this paper as Exhibit A is a copy of the return stamped post-card indicating that the Office received the Response on December 22, 2003, and attached to this paper as Exhibit B is the PAIR print-out for this application that clearly shows that the Office did *not* enter the timely filed Response on December 22, 2003, as it should have, and instead proceeded to start counting days (from October 27, 2003) against applicants for the prosecution of this patent application.

On June 28, 2004, the Office mailed a Notice of Abandonment, which improperly and incorrectly indicated that the application had fallen abandoned on June 19, 2004, for failure to respond to the Notice.

On July 6, 2004, applicants received the Notice of Abandonment.

On August 16, 2004, applicants filed a Petition to Withdraw the Holding of Abandonment under 37 C.F.R. § 1.181(a) ("Petition"), which forwarded the response that was timely filed on December 19, 2003. The Petition was timely filed under the provision of 37 C.F.R. § 1.704(c)(4), which provides that a petition to withdraw the holding of abandonment must be filed within two months of the mailing date of a notice of abandonment.

On August 20, 2004, the Office received and entered the Petition; however, *the Office did not enter the Response as filed on December 22, 2003, instead, the Office incorrectly entered the date for the Response as August 20, 2004, the entry date of the Petition, rather than the receipt date of the Response.*

On December 3, 2004, the Office mailed the Petition Decision ("Decision") granting applicants' Petition. In this Decision, the Office acknowledged that the Response was timely filed on December 19, 2003.

On January 3, 2006, the Office mailed a Non-Final Office Action, acknowledging applicants' Response to Requirement for Restriction filed on October 23, 2003.

On June 5, 2006, in response to the Non-Final Office Action of January 3, 2006, applicants mailed a Amendment under 37 C.F.R. §1.111 and Petition for Extension of Time. This response was received by the Office on June 7, 2006, three months and 65 days after the mailing of the Non-Final Office Action. As shown in the PAIR printout included herein as Exhibit B, the number of days of Patent Term Adjustment for Office delay is properly reduced by the 65 days of applicant delay due to the non-timely submission of this response.

On August 29, 2006, the Office mailed a Final Office Action.

On November 9, 2006, in response to the Final Office Action, applicants timely mailed an Amendment under 37 C.F.R. §1.116 and Terminal Disclaimer ("1.116 Amendment"). A copy of the 1.116 Amendment, along with the Certificate of Mailing certifying that the 1.116 Amendment was mailed on November 9, 2006, is attached as Exhibit C. In addition, a copy of applicants' Mail Log, showing that the 1.116 Amendment was mailed November 9, 2006, is attached as Exhibit D. The November 9, 2006 mailing date was well before the expiration of the three-month period following mailing of the Final Office Action. Accordingly, there was no lack of due care in applicants' use of US Mail and a Certificate of Mailing (rather than, for example, Express Mail).

Receipt of the 1.116 Amendment was never acknowledged by the Office, and on January 29, 2007, applicants submitted to the Office by facsimile a Resubmission of Response Documents Lost or Not Received by the United States Patent and Trademark Office. Exhibit B is the PAIR print-out for this application that clearly shows that the Office did *not* enter the timely filed Response on November 9, 2006, as it should have, and instead proceeded to start counting days against applicants for the prosecution of this patent application. Because the Office considered the 1.116 Amendment to be filed on January 29, 2007, the Patent Term Adjustment shown in the PAIR printout included herein as Exhibit B has been reduced by 61 days of applicant delay. Applicants' submit that, since the 1.116 Amendment was timely filed on November 9, 2006, the Patent Term Adjustment should not be reduced by the 61 days representing the time between November 29, 2006 and January 29, 2007.

On February 26, 2007, the Office mailed the Notice of Allowance, Notice of Allowability, and the Determination of Patent Term Adjustment for this application. The Determination of Patent Term Adjustment noted an adjustment period for this patent application of 112 days. As indicated on the attached PAIR printout, the Office delay for this application is

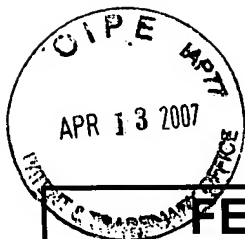
indicated as 536 days and applicants' delay is indicated as 424 days (536 days minus 424 days is 112 days).

Of the 424 days of applicant delay, 295 days are the direct result of the Office failing to enter December 22, 2003, as the date of entry of applicants' Response mailed on December 19, 2003. Because the Office incorrectly entered August 20, 2004, as the date of entry of the Response, rather than the proper receipt date of December 22, 2003, applicants have been deprived of 295 days of patent term to which they are entitled under 37 C.F.R. § 1.703(a)(2); accordingly, applicants respectfully request that the Office increase the patent term adjustment by 295 days.

In addition, of the 424 days of applicant delay, 61 days are the result of the Office failing to enter November 9, 2006 as the date of entry of applicants' Response mailed on that day. Because the Office incorrectly entered January 29, 2007, as the date of entry of the Response, rather than the proper filing date of November 9, 2006, applicants have been deprived of 61 days of patent term to which they are entitled under 37 C.F.R. § 1.703(a)(2); accordingly, and in addition to the 295 days requested above, applicants respectfully request that the Office increase the patent term adjustment by a further 61 days.

With respect to the 536 days of Office delay, this period of time represents the Office delay from December 20, 2004, the date four months from the Office's August 20, 2004, entry date of applicants' response, and the January 3, 2006, mailing date of the Non-Final Office Action. Because applicants response was received by the Office on December 22, 2003, applicants respectfully request readjustment of the calculation of Office delay from 536 days to 621 days, which represents the time period from April 19, 2004, the date four months from the December 22, 2003, receipt date of the response, to the January 3, 2006, mailing date of the Non-Final Office Action. *See*, 37 C.F.R. § 1.703(a)(2).

According to the provisions of 37 C.F.R. §1.702(b), applicants are further entitled to Patent Term Adjustment for the failure of the Office to issue the patent within three years after the date on which the application was filed. Applicants are entitled to this adjustment because none of the provisions described in 37 C.F.R. §1.702(b)(1)-(5) apply in the instant application. The amount of the Adjustment will depend on the date that the instant application is issued as a patent, and should be counted from February 19, 2005 (i.e., the date that is three years from the date that the application was filed), subtracting only time legitimately attributable to applicant



FEE TRANSMITTAL

Complete if Known	
Application Number	10/079,289
Filing Date	February 19, 2002
First Named Inventor	Ratnam Sooriyakumaran
Examiner Name	Barbara Lee Gilliam
Group Art Unit	1752
Attorney Docket No.	YOR92000693US2

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT \$200.00

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account No.	09-0441
Deposit Account Name	International Business Machines Corporation

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Charge any underpayment or credit any overpayments

☐ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING, SEARCH AND EXAMINATION FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee (filed on or before 12/8/04)	
1011	300	2011	150	Utility filing fee (filed after 12/8/04)	
1111	500	2111	250	Search Fee	
1311	200	2311	100	Examination Fee	
1081	250	2081	125	For each additional 50 sheets exceeding 100	

SUBTOTAL (1) \$

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	- 20** =	x	=
Multiple Dependent	- 3** =	x	=

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Claim in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	200	2204	100	** Reissue independent claims over original patent
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) \$

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

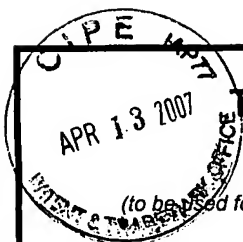
3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1,100	2503	550	Plant issue fee	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1814	130	2814	65.00	Statutory Disclaimer	
Other fee (specify) 37 CFR 1.18(e)					\$200
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3)					\$200.00

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Isaac M. Rutenberg	Registration No. (Attorney/Agent)	57,419	Telephone	(650) 251-7700
Signature		Date	April 10, 2007		



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/079,289
Filing Date	February 19, 2002
First Named Inventor	Ratnam Sooriyakumaran
Art Unit	1752
Examiner Name	Barbara Lee Gilliam
Attorney Docket Number	YOR920000693US2

Mail Stop	Petition
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ENCLOSURES (Check all that apply)

<input type="checkbox"/> No fee due <input type="checkbox"/> Fee Transmittal <input checked="" type="checkbox"/> Fee(s) due: \$ 200.00 <input type="checkbox"/> Check enclosed <input checked="" type="checkbox"/> Charge Deposit Account No. 09-0441 <input type="checkbox"/> 37 CFR§ § 1.16 <input type="checkbox"/> 37 CFR§ § 1.17 <input checked="" type="checkbox"/> Charge any underpayment or credit any overpayment to Deposit Account No. 09-0441 <input checked="" type="checkbox"/> Return postcard <input type="checkbox"/> Amendment/Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) - ___ Affidavits/declaration(s) <input type="checkbox"/> ___-Month Extension of Time	<input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Information Disclosure Statement & PTO-1449 Form(s) <input type="checkbox"/> Cited reference copy(ies) <input type="checkbox"/> Response to Missing Parts / Incomplete Application <input type="checkbox"/> Declaration(s) by Inventor(s) <input type="checkbox"/> Preliminary Amendment <input type="checkbox"/> Updated Application Data Sheet <input type="checkbox"/> Drawing(s) - ___ Sheets <input type="checkbox"/> Compact Disk(s) - ___ CD(s) <input type="checkbox"/> Petition <input type="checkbox"/> Power of Attorney & Address Indication Form	<input type="checkbox"/> Revocation of & New Power of Attorney, Address Indication Form <input type="checkbox"/> Request for Refund <input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input checked="" type="checkbox"/> Other Enclosure (see remarks): <u>Application for Patent Term Adjustment Under 37 C.F.R. 1.705(b)</u>
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REMARKS

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name (print/type)	Isaac M. Rutenberg, Reg. No. 57,419 Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.	Telephone	(650) 251-7700
Signature		Date	April 10, 2007

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Name (print/type)	Joe Clark		
Signature		Date	April 10, 2007